

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-11573

Anthony p. Scapicchio, M.D.

v.

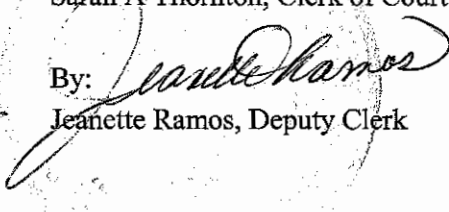
Mount Auburn Professional Services, et al

CLERK'S CERTIFICATE

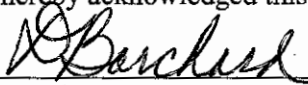
I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 9/7/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on October 13, 2005.

Sarah A Thornton, Clerk of Court

By: 
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 10/14/05


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11573-RWZ**

Scapicchio v. Mount Auburn Professional
Services et al
Assigned to: Judge Rya W. Zobel
Cause: 28:1983 Civil Rights

Date Filed: 07/14/2004
Jury Demand: None
Nature of Suit: 440 Civil
Rights: Other
Jurisdiction: Federal Question

Plaintiff

**M.D., Anthony P.
Scapicchio**

represented by **John S. Day**
24 Bay Road
Duxbury, MA 02332
781-934-2008
Fax: 781-846-0780
Email: jday@daylaw.com
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Rodney S. Dowell
Berman & Dowell
210 Commercial St.
Boston, MA 02109
617-723-9911
Fax: 617-723-6688
Email:
rdowell@bermandowell.com
TERMINATED: 09/14/2004
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

V.

Defendant

Mount Auburn Professional Services represented by **Philip M. Cronin**
a Massachusetts non-profit corporation
 Peabody & Arnold LLP
 50 Rowes Wharf
 Boston, MA 02110
 617-951-2100
 Fax: 617-951-2125
 Email:
 pcronin@peabodyarnold.com

LEAD ATTORNEY
 ATTORNEY TO BE
 NOTICED

Defendant

Mount Auburn Hospital represented by **Philip M. Cronin**
a hospital incorporated in Massachusetts, for itself and as administrator of the Mount Auburn Hospital Retirement Plus 403(b) Plan
 (See above for address)
 LEAD ATTORNEY
 ATTORNEY TO BE
 NOTICED

Defendant

Thomas Fabiano represented by **Philip M. Cronin**
 (See above for address)
 LEAD ATTORNEY
 ATTORNEY TO BE
 NOTICED

Date Filed	#	Docket Text
07/14/2004	1	COMPLAINT Filing fee: \$ 150, receipt number 57283, filed by Anthony P. Scapicchio.(Johnson, Jay) (Entered: 07/15/2004)

07/14/2004		Summons Issued as to Thomas Fabiano, Mount Auburn Hospital, Mount Auburn Professional Services. (Johnson, Jay) (Entered: 07/15/2004)
07/14/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Cohen. (Johnson, Jay) (Entered: 07/15/2004)
09/13/2004	●2	NOTICE of Appearance by John S. Day on behalf of Anthony P. Scapicchio (Johnson, Jay) (Entered: 09/14/2004)
09/14/2004	●3	NOTICE of Withdrawal of Appearance Attorney Rodney S. Dowell terminated. (Dowell, Rodney) (Entered: 09/14/2004)
09/28/2004	●4	ANSWER to Complaint by Thomas Fabiano, Mount Auburn Hospital, Mount Auburn Professional Services.(Johnson, Jay) (Entered: 09/30/2004)
09/30/2004	●5	NOTICE of Scheduling Conference Scheduling Conference set for 10/27/2004 02:30 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 09/30/2004)
10/17/2004	●6	Assented to MOTION to Continue Initial Scheduling Conference to 11/9/2004 by Anthony P. Scapicchio. (Day, John) (Entered: 10/17/2004)
10/18/2004	●	Set/Reset Hearings: Scheduling Conference reset for 11/10/2004 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 10/18/2004)
11/01/2004	●7	JOINT STATEMENT re scheduling conference. (Johnson, Jay) (Entered: 11/03/2004)
11/01/2004	●8	Proposed Document(s) submitted by Anthony P. Scapicchio. Document received: Pre-Trial Schedule Including Plan for Discovery. (Johnson, Jay) (Entered: 11/03/2004)

11/01/2004	●9	CERTIFICATION pursuant to Local Rule 16.1 by Mount Auburn Professional Services, Mount Auburn Hospital and Thomas Fabiano.(Johnson, Jay) Modified on 11/3/2004 (Johnson, Jay). (Entered: 11/03/2004)
11/02/2004	●	Judge Rya W. Zobel : electronic ORDER entered granting <u>6</u> Motion to Continue. 11/10/04 (Urso, Lisa) (Entered: 11/02/2004)
11/10/2004	●	electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel : Scheduling Conference held on 11/10/2004. Cross Motions due by 1/21/2005; oppositions 2/4/05; Judge will decide on papers; (Urso, Lisa) (Entered: 11/10/2004)
11/15/2004	●10	Judge Rya W. Zobel : ORDER entered SCHEDULING ORDER: cross motions for s/j on or before 1/21/05; oppositions 2/4/05; The Court will decide on the papers;(Urso, Lisa) (Entered: 11/15/2004)
12/17/2004	●11	Notice of Plaintiff's intention to proceed w/this litigation from John S. Day, Esq.. (Day, John) Modified on 12/20/2004 (Johnson, Jay). (Entered: 12/17/2004)
12/20/2004	●	Notice of correction to docket made by Court staff. Correction: #11 "Letter" corrected because: WRONG EVENT. (the clerk will edit the pleading to reflect what it is) (Johnson, Jay) (Entered: 12/20/2004)
01/21/2005	●12	MOTION for Summary Judgment by Anthony P. Scapicchio.(Day, John) (Entered: 01/21/2005)
01/21/2005	●13	MEMORANDUM in Support re <u>12</u> MOTION for Summary Judgment filed by Anthony P. Scapicchio. (Day, John) (Entered: 01/21/2005)
01/21/2005	●14	ADDENDUM re <u>12</u> MOTION for Summary Judgment <i>Statement of Undisputed Material Facts</i> filed by Anthony P. Scapicchio. (Attachments: # <u>1</u>

		Exhibit Exhibit A# <u>2</u> Exhibit Exhibit B# <u>3</u> Exhibit Exhibit C# <u>4</u> Exhibit Exhibit D# <u>5</u> Exhibit Exhibit E# <u>6</u> Exhibit Exhibit F# <u>7</u> Exhibit Exhibit G# <u>8</u> Exhibit Exhibit H# <u>9</u> Exhibit Exhibit I# <u>10</u> Exhibit Exhibit J# <u>11</u> Exhibit Exhibit K# <u>12</u> Exhibit Exhibit L# <u>13</u> Exhibit Exhibit M# <u>14</u> Exhibit Exhibit N# <u>15</u> Exhibit Exhibit O# <u>16</u> Exhibit Exhibit P# <u>17</u> Exhibit Exhibit Q# <u>18</u> Exhibit Exhibit R# <u>19</u> Exhibit Exhibit S# <u>20</u> Exhibit Exhibit T# <u>21</u> Exhibit Exhibit U# <u>22</u> Exhibit Exhibit V)(Day, John) (Entered: 01/21/2005)
01/21/2005	<u>15</u>	MOTION for Summary Judgment by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano.(Johnson, Jay) (Entered: 01/25/2005)
01/21/2005	<u>16</u>	MEMORANDUM in Support re <u>15</u> MOTION for Summary Judgment filed by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano. (Johnson, Jay) (Entered: 01/25/2005)
01/21/2005	<u>17</u>	STATEMENT of facts re <u>15</u> MOTION for Summary Judgment. (Johnson, Jay) (Entered: 01/25/2005)
01/21/2005	<u>18</u>	AFFIDAVIT in Support re <u>15</u> MOTION for Summary Judgment, <u>16</u> Memorandum in Support of Motion, <u>17</u> Statement of facts. (Johnson, Jay) (Entered: 01/25/2005)
02/04/2005	<u>19</u>	Opposition re <u>15</u> MOTION for Summary Judgment filed by Anthony P. Scapicchio. (Day, John) (Entered: 02/04/2005)
02/04/2005	<u>20</u>	AFFIDAVIT in Opposition re <u>15</u> MOTION for Summary Judgment filed by Anthony P. Scapicchio. (Attachments: # <u>1</u> Exhibit Exhibit A to Scapicchio Affidavit in Opposition# <u>2</u> Exhibit Exhibit B to Scapicchio Affidavit in Opposition# <u>3</u> Exhibit Exhibit C to Scapicchio Affidavit in Opposition# <u>4</u> Exhibit Exhibit D to Scapicchio Affidavit in Opposition# <u>5</u>

		Exhibit Exhibit E to Scapicchio Affidavit in Opposition# <u>6</u> Exhibit Exhibit F to Scapicchio Affidavit in Opposition)(Day, John) (Entered: 02/04/2005)
02/04/2005	<u>21</u>	<i>Response to Defendants' #17 Statement of Purported Facts</i> filed by Anthony P. Scapicchio. (Day, John) Modified on 2/8/2005 (Johnson, Jay). Modified on 2/8/2005 (Johnson, Jay). (Entered: 02/04/2005)
02/04/2005	<u>22</u>	Opposition re <u>12</u> MOTION for Summary Judgment filed by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano. (Johnson, Jay) (Entered: 02/08/2005)
02/04/2005	<u>23</u>	Response by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano to <u>14</u> Addendum to Motion/Memorandum,statement of undisputed facts,,. (Johnson, Jay) (Entered: 02/08/2005)
02/04/2005	<u>24</u>	MOTION to Strike certain paragraphs of the affidavit of Anthony P. Scapicchio by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano.(Johnson, Jay) (Entered: 02/08/2005)
02/04/2005	<u>25</u>	SUPPLEMENTAL AFFIDAVIT re <u>22</u> Opposition to Motion by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano. (Attachments: # <u>1</u> # <u>2</u>)(Johnson, Jay) (Entered: 02/08/2005)
02/04/2005	<u>26</u>	AFFIDAVIT of Nancy Stryker re <u>22</u> Opposition to Motion by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano. (Johnson, Jay) (Entered: 02/08/2005)
02/04/2005	<u>27</u>	CERTIFICATE OF SERVICE by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano re <u>26</u> Affidavit, <u>22</u> Opposition to Motion, <u>23</u> Response, <u>24</u> MOTION to Strike, <u>25</u>

		Affidavit. (Johnson, Jay) (Entered: 02/08/2005)
02/18/2005	<u>28</u>	Opposition re <u>24</u> MOTION to Strike filed by Anthony P. Scapicchio. (Day, John) (Entered: 02/18/2005)
05/31/2005	<u>29</u>	NOTICE of Change of Address by John S. Day (Day, John) (Entered: 05/31/2005)
08/09/2005	<u>30</u>	Judge Rya W. Zobel : Memorandum of DecisionORDER entered denying <u>12</u> Motion for Summary Judgment, granting <u>15</u> Motion for Summary Judgment. (Urso, Lisa) (Entered: 08/09/2005)
08/09/2005	<u>31</u>	Judge Rya W. Zobel : Order ORDER entered. JUDGMENT in favor of defendants against plaintiff (Urso, Lisa) (Entered: 08/09/2005)
08/09/2005		Judge Rya W. Zobel : endorsedORDER entered denying <u>24</u> Motion to Strike (Urso, Lisa) (Entered: 08/09/2005)
08/19/2005	<u>32</u>	MOTION for Reconsideration re <u>30</u> Order on Motion for Summary Judgment,, <u>31</u> Judgment by Anthony P. Scapicchio. (Attachments: # <u>1</u> Affidavit Affidavit of Plaintiff in Support of Motion for Reconsideration# <u>2</u> Exhibit Monthly Explanation of LongTerm Disability Statements# <u>3</u> Exhibit W-@ Statements for 1995 through 2002)(Day, John) (Entered: 08/19/2005)
08/25/2005	<u>33</u>	Letter/request (non-motion) from Michael J. Cedrone regarding intentions to file opposition. (Johnson, Jay) (Entered: 08/30/2005)
09/01/2005	<u>34</u>	Opposition re <u>32</u> MOTION for Reconsideration re <u>30</u> Order on Motion for Summary Judgment,, <u>31</u> Judgment filed by Mount Auburn Professional Services, Mount Auburn Hospital, Thomas Fabiano. (Johnson, Jay) (Entered: 09/02/2005)
09/01/2005	<u>35</u>	AFFIDAVIT in Support re <u>34</u> Opposition to Motion. (Johnson, Jay) (Entered: 09/02/2005)

09/07/2005	36	NOTICE OF APPEAL as to <u>30</u> Order on Motion for Summary Judgment,, <u>31</u> Judgment by Anthony P. Scapicchio. \$ 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 9/27/2005. (Day, John) (Entered: 09/07/2005)
09/09/2005		Filing fee: \$ 255, receipt number 66710 regarding Notice of Appeal (Johnson, Jay) (Entered: 09/09/2005)
09/19/2005		Judge Rya W. Zobel : endorsedORDER entered denying <u>32</u> Motion for Reconsideration. Based on defendant's affidavit. (Urso, Lisa) (Entered: 09/19/2005)